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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,408	06/23/2003	Garth H. Bulgrien	15138	7679

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CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
NEW HOLLAND, PA 17557

EXAMINER

ESTREMSKY, SHERRY LYNN

ART UNIT PAPER NUMBER

3681

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/601,408

Applicant(s)

BULGRIEN, GARTH H.

Examiner

Sherry L Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3,6,8,11 and 13 is/are rejected.
- 7) ☒ Claim(s) 2,4,5,7,9,10,12,14 and 15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date (<u>3 pages</u>). | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. In the Information Disclosure Statement dated June 10, 2004, the Document Number for reference AK was changed from 6,540,587 to 6,450,587 since patent number 6,450,587 was patented on September 17, 2002 to MacGregor et al. (and, like the rest of the references, was also listed on the information disclosure statement filed November 6, 2003).

Claim Objections

2. Claims 2 and 12 are objected to because of the following informalities: in line 2 of claim 2, it appears "or" should be deleted; in lines 1-2 of claim 12, it appears "wherein the control" should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hansen, U. S. Patent 4,389,618.

Hansen shows in figure 1 a three position transmission shift control 10, including selector lever 12, including a forward position F, a neutral position N, and a reverse position R.

Switch 48 is operable for actuating a park brake 6 (spring applied, hydraulic pressure released) when the control is in the neutral position (column 9, lines 21-34, noting that the cam follower 166 is part of the brake switch 48, as shown in fig. 8).

(claim 1)

The control is automatically operable for releasing the park brake 6 when moved from the neutral position to the forward or reverse positions (F - column 9, lines 35-37 and 45-47; R - column 10, lines 1-3 and 8-10).

(claims 3 and 8)

The shift control is operable for shifting a transmission (the combination of the motor control 3 and traction motor 1) between a forward operating mode, a neutral mode, and a reverse mode. The switch 48 is selectively operable for actuating the park brake 6 when the transmission is in the neutral mode by the driver sitting in, and dismounting from, the seat.

(claim 6)

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5. Claims 1, 3, 11, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin, U. S. Patent 2,725,131.

Martin shows a three position transmission shift control 8/9 including a forward position F, a neutral position N, and a reverse position R.

Switch 31 is operable for actuating a park, or emergency, brake when the control is in the neutral position (column 3, lines 6-10 and 24-27).

(claim 1)

The control is automatically operable for releasing the brake when moved from the neutral position to the forward or reverse positions (column 2, line 65 to column 3, line 2).

(claims 3 and 13)

The transmission shift control includes a shifter 8 (column 1, lines 31-36; column 2, lines 2-6) movable between a forward position, a neutral position, and a reverse position, as indicated by the indicator 9.

The switch 31 is on the shifter 8 (figure 1).

(claim 11)

Allowable Subject Matter

6. Claims 2, 4, 5, 7, 9, 10, 12, 14, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U. S. Patent 2,247,368 (Gindele) July 1941 - discloses a button on the knob of a gear shift lever to actuate a solenoid for maintaining the engaged state of a brake after the driver's foot is removed from a brake pedal.

U. S. Patent 3,136,399 (Granryd) June 1964 - discloses a control in which a park brake is automatically engaged when a transmission shifter is moved to neutral and is automatically disengaged when the shifter is moved to a forward or reverse position.

U. S. Patent 3,480,120 (Lenzen et al.) November 1969 - discloses an interlock between a transmission shifter and a park brake lever. Also discloses the interchangeability of the terms park brake and emergency brake.

U. S. Patent 3,858,695 (Whisler) January 1975 - discloses an interlock between a transmission shift lever and a brake release rod.

U. S. Patent 4,660,696 (Kusaka) April 1987 - discloses a parking brake switch provided in the vicinity of a dashboard, and a solenoid valve energized by the parking brake switch.

U. S. Patent 5,910,067 (Vandendriessche et al.) - discloses a transmission control using push buttons, including a park range button. The parking brake is actuated by the P button, and the brake may stay applied while in neutral.


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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherry L Estremsky whose telephone number is (703) 308-2164. The examiner can normally be reached on Tuesday and Friday from 7:30 a.m. to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on (703) 308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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SHERRY ESTREMSKY
PRIMARY EXAMINER
AU3681 8-3-04